

East Herts Council Report

Executive

Date of meeting: 3rd September

Report by: Alex Cook, Customer Service Manager

Report title: Update on Complaints and implementation of the Local Government and Social Care Ombudsman Code of Practice

Ward(s) affected: All

- **Summary** – This report updates Members on complaints for the 2023/24 year, explores changes introduced by the arrival of the Local Government and Social Care Ombudsman (LGSCO) Complaint Handling Code and outlines how we may expect to be impacted.

RECOMMENDATIONS FOR EXECUTIVE MEMBERS:

- a) That the self-assessment against the LGSCO Code is agreed (Appendix A) and updated annually
- b) That the updated Persistent and Unreasonable Behaviour Policy is recommended for adoption by The Council.

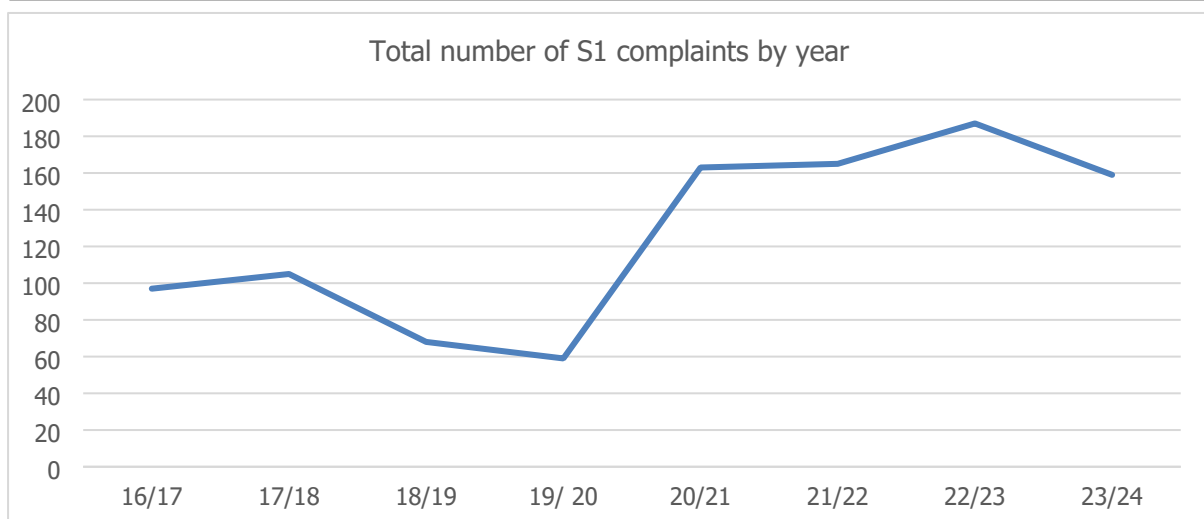
1.0 Complaints data 2023/2024

1.1 Overall number of complaints for 23/24

A total of 159 complaints have been recorded at S1 throughout the 23/24 period. Of these, just 26 were appealed and raised at S2.

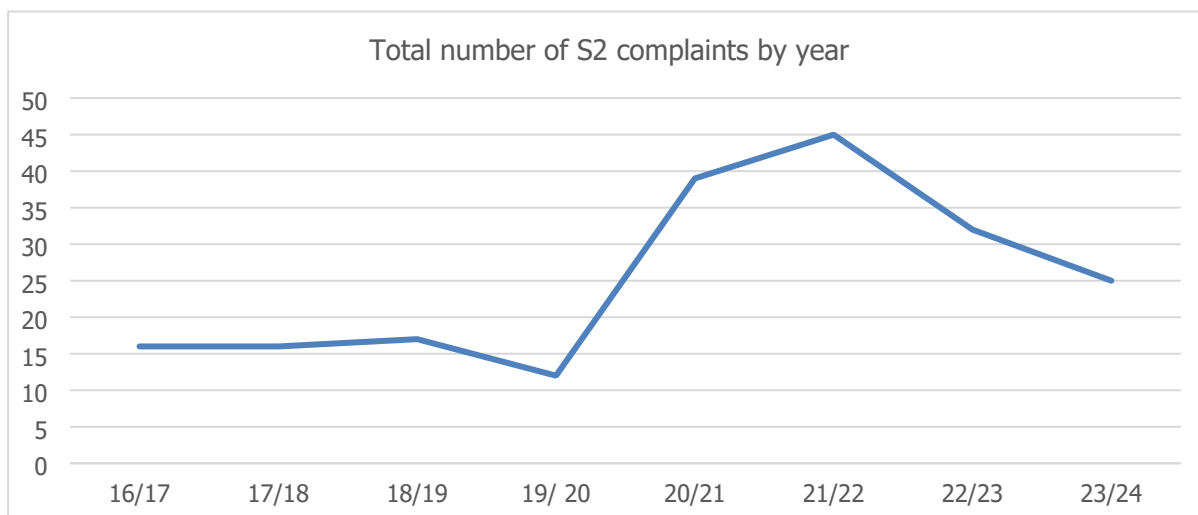
1.2 Breakdown by service area

Stage 1	16/ 17	17/ 18	18/ 19	19/ 20	20/ 21	21/ 22	22/ 23	23/ 24
Comms, Strategy & Policy	0	1	0	3	1	3	1	3
Democratic and Legal Services	1	0	0	0	5	3	1	1
Housing and Health	23	10	8	8	17	8	15	12
HR and OD	0	0	0	0	0	0	0	0
Operations	23	27	30	24	55	89	105	89
Planning and Building Control	34	36	19	13	29	49	46	33
Revenues and Benefits	14	30	9	9	56	13	19	21
Strategic Finance and Property	2	1	2	2	0	0	0	0
Total	97	105	68	59	163	165	187	159



Stage 2	16/ 17	17/ 18	18/ 19	19/ 20	20/ 21	21/ 22	22/ 23	23/ 24
Comms, Strategy & Policy	0	0	0	2	1	0	0	2
Democratic and Legal Services	1	0	0	0	0	2	0	0
Housing and Health	4	1	1	4	5	2	4	3
HR and OD	0	0	0	0	0	0	0	0
Operations	1	5	3	2	6	13	8	3
Planning and Building Control	10	9	10	3	11	20	18	15

Revenues and Benefits	0	1	2	0	16	7	2	2
Strategic Finance and Property	0	0	1	1	0	1	0	0
Total	16	16	17	12	39	45	32	25



Although this data generally shows some fluctuation on the number of cases each year, it suggests a sharp rise in the number of complaints logged during the pandemic. However, this can be explained by changes to our reporting processes in 19/20 – as figures had been questionably low and we suspected a number of cases were not being logged correctly. Last year shows a modest decline for the first time since 2020.

1.3 Response performance

Our target is to investigate and respond to all complaints within 10 working days of acknowledgement. Our performance against this is regularly reported to Leadership Team, with headlines for last year as follows:

Stage	Responded within 10 working days	Responded after 10 working days	Within SLA	Total
S1	117	42	73.58%	159
S2	13	13	50.00%	26

This table does not include acknowledgement data, as our reporting tools do not provide this. However, we know that when complaints come in via the website they are logged and acknowledged immediately on Infreemation, with the customer being provided a reference number. For those that come in via other routes, they are generally logged within 3 working days of being reported to us and this generates an automatic notification to the complainant that their complaint has been raised.

1.4 Outcomes

Stage	Not Upheld		Partially Upheld		Upheld		Total
	Total	%	Total	%	Total	%	
S1	77	48.43%	58	36.48%	24	15.09%	159
S2	18	69.23%	5	19.23%	3	11.54%	26

Using examples of upheld/partially upheld complaints at S2, some common themes around processes (as opposed to the actual outcomes) were identified:

- Partially upheld is often used where overall we feel the council is not at fault but we have been slow in responding or the nature of communication was not felt by the customer to be empathetic (e.g. our tone or use of jargon).
- Some officers may benefit from further training in the use of our complaints platform, as two S1 responses had been logged but not delivered in both cases. This meant both complaints escalated to S2 without the complainant having received their response at S1, despite each response being published. The LGSCO were invited to undertake training with all complaints leads in the council in 2021, however a number of staff

members have left since then. There is a clear need to run this training again, which we plan to do in the Autumn.

- The absence of call recording functionality leaves the Council extremely vulnerable when it comes to providing supporting evidence during complaint investigations. At least three S2 complaints were either upheld or partially upheld for this reason alone, as we were unable to determine *what had or had not been said*, or *how something had been said*, during earlier correspondence. Where there is no evidence arguing either for or against, the council's default position would usually be to give the customer the benefit of the doubt.

A more detailed summary of upheld or partially upheld complaints can be found below:

Summary of Complaint	Outcome	Resolution	Learning
Council tax liability dispute i.e. resident claims to have been charged unfairly and outside of their tenancy period	Upheld	It was decided retrospectively that the resident is not liable for the period relation to their complaint and would not be charged for this	The issue of liability could arguably have been picked up during S1, however it should be acknowledged that this was fairly ambiguous, given the circumstances and complexity behind this case.
Passive handling of planning variation application and inability to speak with officers involved	Upheld	An apology has been given for the residents views on maladministration and injustice, with an offer of payment to the value of £500	Poor interdepartmental collaboration has created unnecessary delays in processing the complainant's query. Incomplete records and lack of correspondence evidence detailing

			previous contact to and from the complainant are also largely to blame for this outcome.
Mishandling of process in relation to an Asset of Community Value case	Partially Upheld	An apology was offered for poorly perceived tone during earlier correspondence with Officers	The response explained that correct procedures had been followed and that the matter had been handled correctly throughout each stage of the process with no evidence suggesting otherwise, yet this has been <i>partially upheld</i> . An apology was offered for Officers' tone during earlier correspondence; however this does not necessarily justify a different outcome.
Multiple missed bin collections reported with no resolution and a lack of response	Partially Upheld	Apology and explanation offered as to why an initial response was not issued. Resolution has been put in place with commitment to monitor upcoming collections	Initial S1 response had been logged but not delivered - a result of human error whilst using the complaints system. The S2 response was very good, but entirely avoidable.

<p>Bulky waste collection did not take place due to a misunderstanding between customer and customer services on location of collection point</p>	<p>Partially Upheld</p>	<p>An apology was made and an offer of a follow-up sofa pickup arranged, with us covering cost</p>	<p>The customer has been given benefit of the doubt due to a lack of supporting evidence detailing what had or had not been said during their initial phone call requesting the service. Call recording functionality would have eliminated any risk of failure here, as we could use this to determine what had been agreed at FPOC.</p>
<p>Report of abuse and maltreatment by the Council during homeless application</p>	<p>Partially Upheld</p>	<p>Apologies were made for any perceived tone or language used by EHC officers, in lieu of supporting evidence for or against</p>	<p>Comments made on officer telephone tone and conduct have been partially upheld in this response, in lieu of call recording functionality. As no other element of the complaint was upheld, it would appear <i>partially upheld</i> has been used a middle outcome when supporting facts or evidence is lacking.</p>

<p>Various issues relating to experiences and service received at launchpad</p>	<p>Partially Upheld</p>	<p>Apologies were made for the delayed response and experience on the whole, with commitments being made to follow up these issues with relevant officers</p>	<p>Initial S1 response had been logged but not delivered - a result of human error whilst using the complaints system. The complaint also indicated conversations containing private details had taken place in open settings, which could be deemed generally inappropriate and also potentially a GDPR risk in certain scenarios.</p>
<p>Incorrect advice given out in relation to pest control, resulting in an expensive fee paid by the complainant privately</p>	<p>Upheld</p>	<p>An apology was issued for the miscommunication and an offer of compensation was made to cover the customer's incurred losses. However, the customer has been uncontactable since the offer was made.</p>	<p>Incorrect advice was given to the complainant by officers outside the CS team, whom it could be argued should have been passed the query in the first place. This advice was given via email, for which we have a record, however subsequent correspondence was made via telephone. Again, call recording would have allowed us to determine what advice was given once the query did</p>

			eventually reach the customer services team.
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1.5 Complaints dealt with by the Ombudsman

Once the EHC complaints process has been exhausted, complainants can go to the Ombudsman to appeal our stage 2 decision if they are still unhappy.

The LGO website can be used to view past complaints to EHC and a link to the specific webpage can be found below. Please note, the search functionality does not seem to work unless *East Hertfordshire District Council* is typed in full:

<https://www.lgo.org.uk/Decisions>

A Council performance report which displays the number and percentage of upheld cases can also be found on the LGO website via <https://www.lgo.org.uk/information-centre/councils-performance>. It is worth noting this data can often be misleading, as LGO only use complaints they have investigated as the source data for this. A significant portion of complaints received by LGO are not investigated and this could be for a number of reasons, however none of these cases are included in the Council performance report. For instance, the Ombudsman may receive 10 complaints from customers but only take one of these forward for investigation (on the basis that the other nine have not resulted in injustice to the customer). If this one complaint is then upheld, then our performance is marked as “100% of East Herts complaints are upheld”, when actually it should be 10%.

A more detailed summary of the cases referred to the Ombudsman over the 2023/24 can also be found below.

Ref	Summary of Complaint	LGO Decision
23000823	Mr X has complained about how the Council dealt with his neighbour's planning application. Mr X says the decision to grant planning permission was not in line with the Council's planning policy and the development will have a significant impact on his property.	We will not investigate Mr X's complaint because we are unlikely to find fault by the Council.
22012606	Mr X complains the Council failed to take planning enforcement action between December 2020 and December 2022 on a development where he lives.	We find no evidence of fault in the Council's decision making or how it progressed the case. We therefore cannot question the merits of its decision.
23003067	Mrs X has complained about how the Council dealt with a breach of planning control and a retrospective planning application. Mrs X says the decision to grant planning permission was based on inaccurate information and the development is causing damage to her property.	We will not investigate this complaint about how the Council dealt with a breach of planning control and a retrospective planning application. This is because we are unlikely to find fault.
23003350	Miss X complains about the Council's handling of her homelessness application. She argues the Council lacked understanding of domestic abuse, disregarded her situation, and wrongly decided she was not legally homeless. Miss X states this was distressing.	We will not investigate this complaint about Miss X's homelessness application. This is mainly because it is not the Ombudsman's role to provide the general review of the Council's approach that Miss X wants.

23005595	<p>Mrs X complains the Council has breached a covenant about the barrier it should provide between land it owns and land Mrs X owns. Mrs X says this affects her use of the land and she has suffered expense and inconvenience.</p>	<p>We will not investigate this complaint about the alleged breach of a covenant. Mrs X can reasonably take court action. It is also unlikely we would achieve what Mrs X wants.</p>
23007010	<p>Mr X has complained about how the Council dealt with an application for a development near his home and a possible breach of planning control. Mr X says the decision to approve the application was based on insufficient and inaccurate information and the development has not been built in line with the approved plans.</p>	<p>We will not investigate this complaint about how the Council dealt with an application for a development near the complainant's home or a possible breach of planning control. This is because we are unlikely to find fault and the complainant has not suffered significant injustice.</p>
23011190	<p>Mr X complains about the Council's decision to allow his neighbour to build an extension on traditional concrete foundations, rather than requiring piled foundations. He is unhappy the Council claimed not to have seen the piled foundations supporting the existing property and is concerned that if the new extension suffers from subsidence, this will result in an increase in his building insurance premiums and those for other properties nearby.</p>	<p>We will not investigate Mr X's complaint about a building control matter. This is because there is not enough evidence of fault by the Council or to show its actions caused Mr X significant injustice. We also cannot achieve the outcome Mr X wants.</p>

1.6 General themes

- Complaints directed at named EHC officers have been rare. When they are received, they tend to be in relation to sensitive enquiries (predominantly Housing matters).
- An overwhelming majority of all complaints in relation to staff conduct fell within Operations, specifically based on behaviour displayed by crews employed by our waste contractor. Predictably, almost all our Operations complaints have been in relation to waste issues.
- Most Revenues and Benefits complaints relate to council tax disputes.
- Housing complaints are often in relation to homelessness or soon-to-be homelessness, meaning many of these are sensitive and emotion plays a large part in the complaint itself and how it is written, as well as how our responses are received and the level of empathy shown.
- Planning complaints are often some of the most complex due to legislation and in-depth knowledge required, however we often find complainants attempt to use our complaints process as a means of objection rather than using the channels designed for this.

2.0 LGSCO Complaint Handling Code

2.1 Background

In February 2024, the LGSCO launched the Complaint Handling Code with the intention for Councils to adopt this into their practices as soon as they are able to do so. The purpose of the Code is to encourage effective procedures, consistency and a positive complaints culture across local authorities. It was also an attempt to consolidate standards across Ombudsmen who support other parts of the public sector (e.g. Housing).

The Code sets out a clear process for organisations which supports prompt, effective and fair responses. It also encourages the use of data and learning to drive service improvements. The principles, process and timescales in the Code are aligned with the Complaint Handling Code issued by the Housing Ombudsman. This means that organisations who fall under the jurisdiction of both Ombudsmen should be able to provide a co-ordinated complaint handling process across services covered by both Codes.

The LGSCO intends to start considering the Code as part of their processes from April 2026, giving organisations the opportunity to adopt it into their working practices.

A link to the Code can be found here:

<https://www.lgo.org.uk/information-centre/information-for-organisations-we-investigate/complaint-handling-code/complaint-handling-code>

2.2 Summary of Changes

Initial proposals set out in the Code were released last year, all subject to consultation. These were wide ranging and created tighter restrictions and increased burdens on definitions, resources, governance and reporting. Along with many other local authorities, East Herts submitted its response to the consultation through the Head of Communications, Strategy and Policy in December 2023.

The LGSCO has since published the full code with various amendments based on feedback. It is clear from the final proposals that East Herts was not alone in raising concerns, as the code is now much more moderate in its scope. Key points to note include:

- The definition of a complaint is not any expression of dissatisfaction, as had originally been proposed. The Code now accepts that, for example, a customer saying “I’m unhappy my bin has not been collected” does not automatically have to be registered as a complaint and in the first instance we should treat this as a service request and attempt to resolve the issue for the customer. It is accepted that service requests may contain expressions of dissatisfaction, allowing organisations to resolve issues through normal service delivery before a complaint is made.
- Removal of references to having a “person or team” responsible for complaint handling or a dedicated “complaints officer”. The Code now says organisations should have “designated sufficient resource” for complaint handling, providing organisations with more flexibility in how this is delivered. This allows us more flexibility in how we handle complaints, which is important for smaller organisations like District Councils. In our case, we have a complaints lead who works four days a week, but also has other duties within customer services. Dealing with complaints is also part of the day-to-day activities of various staff across the council.
- Removal of references to non-identification of individual members of staff within complaint responses as feedback from the consultation indicated this would be too problematic when responding to complainants, who often like to know that there is a named individual dealing with their case rather than “The Council” at large. Although this has been removed, LGSCO is intent on covering the issue in an accompanying guide at a later date.
- Alterations to best practice timescales, making it clear that the time to acknowledge complaints runs from the date

received and the time to respond runs from the date of acknowledgement. All complaints must be acknowledged and logged within 5 days of receipt, whilst responses must be issued within 10 working days and 20 working days for S1 and S2 respectively.

- The consultation version of the Code featured the definition of an upheld complaint, as well as the suggestion that “partially upheld” should not be used as an outcome option. This section has since been removed from the Code entirely, as feedback suggested it failed to capture nuances around complaint outcomes and was therefore unhelpful.
- We are required to publish an annual self-assessment against LGSCO criteria for effective complaint handling. The self-assessment example provided by LGSCO initially contained some 90+ lines of enquiry, however is now substantially reduced in and more manageable.
- Complaints procedures should have only two stages to ensure they are properly considered without undue delay.
- The Code was launched in February 2024 and local councils are encouraged to adopt the Code as soon as they are able to do so. LGSCO had intended to start applying the Code in their casework from 25/26, giving Councils a year to adopt the Code, but this has since been amended to 26/27 to allow organisations more time to adopt the Code successfully into working practices.

2.3 Impact for East Herts

East Herts Council are already compliant with many of the points included within the Code. For instance, any Council working with a single-stage or a three-stage complaints process will be encouraged to change this to a two-stage process as standard - East Herts already use a two-stage process, so this is a non-issue for us. However, the response time SLAs suggested by the Code do differ from our own in that they are more generous (e.g. Allowing 20 working days for a stage 2 response) This, alongside some minor issues around accessibility, were identified when carrying out the required self-

assessment, which can be found in Appendix A. Completion of our self-assessment document has identified some areas which would require addressing in order for us to become Code compliant. These are listed as follows:

- Reviewing our existing policy for dealing with persistent and unreasonable contact (see Appendix B). This had not been refreshed since it was adopted by Council in 2020, however it has been recognised by East Herts front line staff that customer behaviour has changed significantly since Covid and our interactions with residents can be extremely challenging in some cases. Our refreshed policy supports East Herts staff and Councillors by offering clear guidance and options when dealing with persistent unreasonable behaviour.
- Publishing a list of exclusions within our complaints policy (i.e. what may not be defined as a complaint). Please note our complaints policy is not a separate document but can be found on our relevant webpage: [Make a Formal Complaint | East Herts District Council](#)
- Including a reference and direct link to our complaints process within any feedback surveys we undertake where relevant.
- Updating our web information around S1 process and timescales.
- Updating our web information around S2 process and timescales (including change to 20 working days). Although this is more generous than our current aim to respond within 10 working days we often fail to hit this target as stage investigations can be lengthy and complex.
- Reviewing our existing complaint response templates to make sure they are up to date.
- Annual completion of self-assessment document, to be owned by the Customer Service Manager.
- Inclusion of a complaints tab on our monthly customer services dashboard, shared with Leadership colleagues and Exec Member for Corporate Services.

These actions are already completed or are in progress.

Community Safety

No

Data Protection

All data published herein is anonymised to ensure no information regarding individual complainants is shared.

Equalities

The complaints process does, where relevant, consider protected characteristics as part of the investigative process. The ombudsman will also be concerned with any relevant issues on equalities in regards to complaints handling. The refreshed policy on Unreasonable and Persistent Behaviour will need an update equalities impact assessment before adoption by Council however we anticipate this to be straightforward as changes since the previous version are relatively minor.

Environmental Sustainability

No

Financial

No

Health and Safety

No

Human Resources

No

Human Rights

No

Legal

Yes – new policy drafted in conjunction with data protection colleagues to ensure there is a connection to looking at vexatious FOI requests.

Specific Wards

No

3.0 Background papers, appendices and other relevant material

3.1 Appendix A – self-assessment

3.2 Appendix B – Unreasonable and Persistent Behaviour Policy

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